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U.S. Department of State

Sri Lanka Country Report on Human Rights Practices for 1997

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SRI LANKA

Sri Lanka is a longstanding democratic republic with an active multiparty system. Constitutional power is shared between the popularly elected President and the 225-member Parliament. President Chandrika Kumaratunga leads the governing People's Alliance (PA), a coalition of parties. Both the Parliament and the President were elected in free and fair elections in 1994. The Government respects constitutional provisions for an independent judiciary.

For the past 14 years the Government has fought the Liberation Tigers of Tamil Eelam (LTTE), an insurgent organization fighting for a separate state for the country's Tamil minority. During the year, the fighting intensified. In May the Government launched a major offensive aimed at opening a land route to the Jaffna Peninsula through LTTE-controlled territory in the north. The offensive resulted in hundreds killed on both sides and created tens of thousands of newly displaced persons.

The Government controls all security forces. The 50,000-member police force is responsible for internal security in most areas of the country and has also been used in military operations against the LTTE. The 118,000 member army (which includes the Army Volunteer Force), and the 12,500-member navy and 10,000-member air force, bear principal responsibility for conducting the war against the LTTE insurgents. The police paramilitary Special Task Force (STF) also battles the LTTE. The 5,000 strong home guards, an armed force drawn from local communities, provides security for Muslim and Sinhalese village communities in or near the war zone. The Government also arms and directs various Tamil militias opposed to the LTTE, though at times these groups act independently of government.

authority. During the year, some members of the security forces committed serious human rights abuses.

Sri Lanka is a low-income country with a market economy that is based on the export of textiles, garments, tea, rubber, coconuts, and gems, and on earnings from tourism and repatriated earnings of citizens employed abroad. The gross domestic product per capita is about \$780. The economy grew in excess of 5 percent per year during 1990-1995 but growth slowed to 3.8 percent in 1996 due to the ongoing war and a severe drought. Renewed investor confidence, an upswing in tourism, and easier credit helped the economy rebound to a growth rate of almost 6 percent in 1997. During the year, the Government made significant steps toward economic reform, including trimming subsidies, privatizing government enterprises, and promoting foreign investment and trade.

The Government generally respected the human rights of its citizens in areas not affected by the conflict. However, the ongoing war with the LTTE continued to be accompanied by serious human rights abuses by the security forces. Security forces committed as many as 100 extrajudicial killings. In addition, at least 100 individuals disappeared from security force custody on and near the Jaffna Peninsula in the north during the course of the year and 25 such disappearances occurred in the eastern part of the island. Torture remained a serious problem, and prison conditions remained poor. Arbitrary arrests--including short-term mass arrests and detentions--continued, often accompanied by failure of the security forces to comply with some of the protective provisions of the Emergency Regulations (ER). Impunity for those responsible for human rights abuses remained a serious problem. No arrests were made in connection with the disappearance and presumed killing of at least 300 LTTE suspects in Jaffna in 1996. Progress was made in a few longstanding, high-profile cases of extrajudicial killing and disappearance. In most cases, however, no progress was made, or there was no investigation or prosecution at all, giving the appearance of impunity for those responsible for human rights violations. Both the Government and the LTTE apparently killed prisoners taken on the battlefield. The Government infringed on citizens' privacy rights and engaged in direct censorship of domestic newspaper reporting and foreign television broadcasts from January to May. Discrimination and violence against women, child prostitution, and child labor continued to be problems.

In positive developments, the Government took steps to control the abuses. A permanent Human Rights Commission was constituted and began operations. A human rights office opened officially on January 8, 1998 in Jaffna. Prosecutions of security force personnel alleged to have engaged in human rights abuse continued in a few cases. In the Krishanthi Kumaraswamy murder and rape case in which a young woman and three other individuals were killed in September 1996 in Jaffna, the Government ordered an expedited trial for the nine accused. The case came to trial in September and was ongoing at year's end. There was no attempt, as in the past, to use the ER to cover up security force misdeeds. Through its rulings, the judiciary continued to exhibit its independence and uphold individual civil rights. Government security forces continued to take effective measures to limit civilian casualties during military operations. The Government also continued to provide relief to those displaced by the conflict even though many were still under the control of the LTTE. However, government restriction on medical supplies contributed to poor health conditions for civilians in the Vanni. Three regional commissions established to investigate disappearances completed their investigations although the results of these investigations were not made public.

Progovernment Tamil militants committed extrajudicial killings and were responsible for disappearances, torture, detentions, and forced conscription.

The LTTE attacked civilians during the course of the year. The LTTE regularly committed extrajudicial killings, and was also responsible for disappearances, torture arbitrary arrests, and detentions. The LTTE killed two parliamentarians and nine other civilians in two separate incidents in Trincomalee in July. LTTE attacks on international shipping resulted in the death of several crewmen and considerable

damage to property. The LTTE continued to take civilians hostage and, in July, abducted 32 Muslim villagers, demanding the release of 5 LTTE prisoners held by the security forces. All of these hostages had been released by November. The LTTE attacked a number of economic targets, including the October bombing of the World Trade Center and nearby hotels and the July attack on a Panamanian-flag merchant vessel. The LTTE continued to control large sections of the north and east of the country through authoritarian military rule, denying the people under its authority the right to change their government, infringing on their privacy rights, routinely violating their civil liberties, operating an court system, and severely discriminating against ethnic and religious minorities.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Political and Other Extrajudicial Killing

Police (mostly STF officers) and army and navy personnel committed extrajudicial killings in both Jaffna and the Eastern Province. Most of these were associated with operations against the LTTE insurgents or interrogation of suspected terrorists. Up to 100 individuals were killed, although the exact number was impossible to ascertain due to censorship of news relating to military or police operations, and lack of regular access to the north and east where the war was being waged.

In some cases these extrajudicial killings were reprisals against civilians for LTTE attacks in which members of the security forces were killed or injured. In many cases, the security forces claimed that the victims were members of the LTTE, but human rights monitors believe otherwise. The perpetrators of these killings had not been arrested by the Government at year's end.

Impunity remains a serious problem. Since April 1995 at least 700 persons have been extrajudicially killed by the security forces or disappeared after being taken into security forces custody and are presumed dead. As of year's end, no member of the security forces had been convicted for any of these crimes. In the vast majority of cases where military personnel may have committed human rights violations, the Government has not identified those responsible and brought them to justice. The military leadership has failed also in this regard. Almost all senior military officers now serving were mid-level officers during the Janatha Vimukthi Peramuna (JVP) uprising, when security forces were given great leeway in dealing with that threat to the nation's security. Attitudes and practices have been slow to change.

Security force personnel were probably responsible for the death of Reverend Innasi Arulpalan, a priest from the Jaffna Diocese of the Church of South India. The University Teachers for Human Rights-Jaffna (UTHR-J) reported that witnesses saw Rev. Arulpalan and two other individuals being taken away by the army on August 25. Their three mutilated bodies were found on September 9. The military formally denied responsibility for the incident and placed the blame on the LTTE.

In November 1996, 16 police and army personnel were arrested for the rape and murder of Krishanthi Kumaraswamy, the murder of 2 of her family members, and the rape and murder of another individual. Although 11 of the security personnel were originally accused in the case, charges against 2 have reportedly been dropped in return for their cooperation in the investigation. The Government in February ordered a trial at bar against the 9 accused in an effort to expedite the case. A trial at bar means that the case is to be heard by a panel of judges, dispensing with a lengthier trial by jury. This is only the fourth time since independence that the Government has taken the step of ordering a trial at bar. The case came to trial in September and was ongoing at year's end.

The case against the eight soldiers and one reserve police constable arrested in February 1996 in the Kumarapuram massacre of 24 Tamil villagers came to trial in September and was ongoing at year's end.

In July 1996, the charred body of a Tamil textile merchant who had been detained under the ER was found at Giribawa in North Central Province. Six police officers, including the officer in charge of the police counter-subversive unit in Vavuniya, were arrested and detained under the ER. The officers in the Giribawa case were released on bail. The officer in charge was released at the end of December 1996; the other officers were released in January. The Attorney General had not made a recommendation to the High Court at year's end.

In October 1995, 22 members of the STF were arrested and detained under the ER on suspicion of murdering 23 Tamil youths whose bodies were found floating in Bolgoda Lake and other bodies of water near Colombo. The suspects were released on bail and resumed their police functions in February 1996. At year's end the case had not come to trial. It was delayed on several occasions by the prosecution's failure to be present during court proceedings.

A presidential commission was established to investigate alleged torture and murder in the late 1980's at a government-run detention center at Batalanda Housing Estate near Colombo. In August 1996 five police officers were arrested for alleged complicity in the center's abuses. The investigation was continuing at year's end.

The People's Alliance (PA) Government came to power in 1994 promising to bring to justice the perpetrators of extrajudicial killings from previous years. In 1994 it began prosecutions of suspects in several extrajudicial murders allegedly perpetrated by members of the security forces. The trial of 21 soldiers, accused of massacring 35 Tamil civilians in 1992 in the village of Mailanthani in Batticaloa district, was transferred to the Colombo High Court in 1996. The trial was continuing at year's end. In April the 4 police officers indicted in 1994 for the 1990 murders of 12 civilians in Wavulkelle were acquitted for lack of evidence.

There were no developments in the Government investigations into the mass graves at Sooriyakanda, which contain an estimated 300 bodies, or the grave at Ankumbura, which is thought to contain the bodies of 36 people killed by the police in 1989. There were also no developments in the Nikaweratiya army camp incident in which 20 youths were allegedly killed by soldiers in 1989 during the period of the JVP uprising.

On July 10, the ER, which had been in force throughout the country intermittently since 1983, was lifted in most areas outside of the north and east and the capital of Colombo. There was no evidence that the Government was using the regulations, as in previous years, to conceal extrajudicial killings or disappearances. Nevertheless, crucial safeguards built into the ER and the legislation establishing the new Human Rights Commission (HRC)--which replaced the Human Rights Task Force (HRTF)-- were being routinely ignored by the security forces--especially those provisions requiring receipts to be issued for arrests and ordering the security forces to notify the HRC (previously the HRTF) of any arrest within 48 hours. Although security force personnel can be fined or jailed for failure to comply with the ER, none were known to have been punished during the year.

In the east and in Vavuniya in the north, the military wing of the People's Liberation Organization of Tamil Eelam (PLOTE), the Mohan group and the Rasheek group--pro-government Tamil militant organizations--were responsible for killing a number of people. The security forces arm and use these militias to provide information, help identify LTTE insurgents and, in some cases, fight in military operations against the insurgents. The exact size of these militias is impossible to ascertain but they

probably total less than 2,000 persons. Military oversight of these groups is inadequate. These groups frequently operated beyond government control. The militias gain access to internally displaced persons (IDP's) transit camps through a variety of means, including bribery and threats. Complaints about their activities continued as the number of IDP's interacting with them increased, especially in the IDP transit camps in Vavuniya. It was impossible to determine the number of victims because of the secrecy with which these groups operated. Those killed by these militants included both LTTE operatives and civilians who failed to comply with extortion demands.

Violence between supporters of the major political parties worsened during the year, and six people, including a member of Parliament, were killed in violence related to local government elections held in March.

The LTTE continued to commit extrajudicial killings. In July it killed two members of Parliament (M.P.'s) in separate attacks that also claimed the lives of nine other individuals, including a small child. Killings of political opponents in the east continued, some perpetrated by "pistol gangs" which successfully carried out their attacks using motorcycles and revolvers. The LTTE continued to execute suspected government informants. In the past, the LTTE has killed university professors, members of nonviolent Tamil opposition parties, and human rights monitors.

In July the LTTE hijacked an empty Indonesian-flag passenger ferry and subsequently burned it after releasing the crew. Later that month the LTTE hijacked a North-Korean flag cargo vessel, killing a member of the crew. In September the LTTE attacked and badly damaged a Panamanian-flag merchant vessel. Up to 15 civilians were killed in the attack, including Chinese crewmen.

The LTTE also attacked government installations. For example, in October there were several attacks on police stations and military bases in the north and east. Scores of people on both sides were killed in these actions.

There were no developments in the October 1994 suicide bombing that killed the United National Party's presidential candidate, Gamini Dissanayake, and 58 other people, although the LTTE is generally believed to be responsible.

b. Disappearance

Disappearances at the hands of the security forces continued, especially in the east and north. There were no reports of disappearances in Colombo in 1997. Most of the disappearances were associated with the arrest of suspected LTTE insurgents. At least 125 individuals disappeared, although, as with extrajudicial killings, the exact number was impossible to ascertain due to censorship of news about security force operations and infrequent access to the north and east.

There were approximately 350 confirmed cases of disappearance in 1996, 34 in 1995, and 10 in 1994. The large number of disappearances in 1996 corresponded to an intensification of the conflict with the LTTE, including the Government's capture of the Jaffna Peninsula and several acts of terror by the LTTE, including a suicide bombing in Jaffna in July 1996. Those who disappeared in 1997 and in previous years are presumed dead. The disappearances involved persons last known to be in police or army custody. The Commander of the Army and the Inspector General of Police have both issued directives condemning disappearances and stating that perpetrators would be called to account. No security force personnel have been prosecuted to date.

In November 1996, the Ministry of Defense established a Board of Investigation to look into

disappearances in the north and east and review security forces procedures. According to press reports, the Board received more than 2,500 complaints of disappearances. After eliminating duplicated names, the Board found that 730 persons were alleged to have disappeared. It was able to trace 182, who were located at home or in custody. The balance of 548 cases was unresolved. The Board completed its activities and disbanded by year's end, and its findings were not made public. At year's end, the Government had not publicly identified or charged those responsible for disappearances during the year, although government officials have indicated that those responsible would be held accountable.

The mandates of the three regional commissions set up in November 1994 to inquire into disappearances occurring after January 1, 1988 expired, and the commissions submitted their final reports to President Kumaratunga in September. The commissions investigated 19,079 cases of disappearance, most of which occurred during the 1988-89 period of the JVP uprising. The commissions are reported to have found evidence that 16,742 persons disappeared after having been involuntarily removed. The commissions were believed to have accumulated sufficient information to prosecute a large number of government officials and security forces personnel for human rights violations. Their final reports had not been made public by year's end, nor had the Government taken steps to prosecute those responsible for the disappearances, although the Justice Minister promised that the Government would do so.

The trial of 11 suspects, including an army brigadier general, in the disappearance of 32 youths from the southern town of Embilipitiya in 1989 and 1990 continued at year's end. These were no developments in the Vantharamulle case, in which army troops allegedly abducted 158 Tamils from a refugee camp in Batticaloa district in 1990. Observers maintain there is credible evidence identifying the alleged perpetrators. There was also no progress in the case of 31 youths who allegedly disappeared following their arrests in Divulapitiya in 1989.

The Government continued to give the International Committee of the Red Cross (ICRC) unhindered access to approximately 250 detention centers, police stations, and army camps officially recognized as places of detention. This played an important role in enabling the ICRC to monitor the human rights practices of the security forces, as did the work of the HRC, which replaced the HRTF in mid-year. However, the HRC opened an office in Jaffna on January 8, 1998. Progovernment Tamil militias detain people at various locations that serve, in effect, as undeclared detention centers.

Progovernment Tamil militants in the east and north, acting independently of government authority, were also responsible for disappearances. As in the case of extrajudicial killings, it was impossible to determine the exact number of victims because of the secrecy with which these groups operated. The Government has taken no clear public steps to condemn the militants' actions or to stop them.

The LTTE was responsible for an undetermined number of civilian disappearances in the northeastern part of the island. Most of the 400 to 600 police officers captured by the LTTE in 1990 are believed to be dead, as are over 200 security force personnel captured at a battle in Pooneryn in 1993. Although the LTTE denies taking any prisoners following the Mullaitivu battle in July 1996, it is currently suspected of holding some. The LTTE has not notified the ICRC of any new security forces prisoners since 1994.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

In 1994 the Government acceded to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Parliament also enacted legislation to implement the torture convention by making torture a punishable offense. The Government, however, has not yet developed effective regulations under the new legislation to prosecute and punish military and police personnel responsible for torture, though it has ceased paying fines incurred by security force personnel guilty of

the offense. Security forces personnel have been fined under civil law for engaging in torture, but not prosecuted under criminal law (see Section 1.c.).

Members of the security forces continued to torture and mistreat detainees and other prisoners, both male and female, particularly during interrogation. Progovernment Tamil militants in the east and north, directly responsible to the security forces, also engaged in torture. Most torture victims were Tamils suspected of being LTTE insurgents or collaborators.

Methods of torture included electric shock, beatings (especially on the soles of the feet), suspension by the wrists or feet in contorted positions, burnings, and near drownings. In other cases, victims are forced to remain in unnatural positions for extended periods, or bags laced with insecticide, chili powder, or gasoline are placed over their heads. Detainees have reported broken bones and other serious injuries as a result of their mistreatment. There were no reports of rape in detention.

Under fundamental rights provisions in the Constitution, torture victims may file civil suit for compensation in the Supreme Court. The Court granted awards ranging from \$200 to \$2,500. Most cases, however, take 2 years or more to move through the courts. Moreover, because the 1994 Anti-torture Law imposes a heavy minimum punishment of 7 years' imprisonment, the Court is scrutinizing fundamental rights cases more carefully than in the past, since findings would weigh heavily in criminal prosecutions of torturers. During the year, there were no cases brought before the courts under the Anti-torture Law.

The LTTE reportedly used torture on a routine basis. Because of the secretive nature of the LTTE, however, no first-hand information has available.

Prison conditions are generally poor and do not meet minimum international standards because of overcrowding and lack of sanitary facilities. An increase in the number of detentions associated with the war with the LTTE caused a significant deterioration in already poor standards in short-term detention centers.

The Government permitted representatives from the ICRC to visit approximately 250 places of detention. The HRC also visited prisons on an ad hoc basis and other places of detention regularly. Usually those in prison already have been convicted and questions related to the proper use of the ER and PTA for arrest are no longer relevant.

Conditions are also believed to be poor in detention facilities operated by the LTTE.

d. Arbitrary Arrest, Detention, or Exile

Under ordinary law, authorities must inform an arrested person of the reason for arrest and bring that person before a magistrate within 24 hours. In practice, persons detained under ordinary law generally appear before a magistrate within a few days of arrest. The magistrate may authorize bail or order continued pretrial detention for up to 3 months or longer. Under the ER and the Prevention of Terrorism Act (PTA), security forces may detain suspects for extended period of time without court approval. The ER, still in force in many areas in the nation, allow pretrial detention for a maximum of four consecutive 3-month periods. A magistrate must order further detention. Detainees may challenge their detention and sue the Government for violating their civil rights in the supreme court.

In June the Government used the ER to arrest Sirisena Cooray, former housing minister under the UNP Government, who had formerly been a prominent figure in the opposition party. In August the Supreme

Court ruled the fundamental rights of Cooray had been violated and ordered the Government to release him from custody and pay \$3,600 in compensation.

In spite of government announcements that it would close all secret detention centers, there were continued reports that the security forces held people in such a manner, especially on the Jaffna Peninsula. Tamil militant groups, ostensibly under the direct control of the security forces, were known to be operating illegal--and unmonitored--detention centers in the east and in Vavuniya.

Detention of Tamils continued as a result of the continuing hostilities with the LTTE. At year's end, the Government held more than 1,500 detainees under the ER, compared with 1,500 at the end of 1996, 940 at the end of 1995, and 380 at the end of 1994. Many of these detainees were arrested during operations against the LTTE. Between January and July, 300 suspected members of the LTTE were detained on the Jaffna Peninsula. The Government continued to detain up to 300 individuals under the PTA, which permits detention without charge for up to 18 months. In some cases, Tamils have been detained without charge under the PTA for up to 4 years.

Arrests and detentions by the police took place in violation of the legal safeguards built into the ER and other legislation, particularly regarding requirements that receipts be issued and that the HRC (previously the HRTF) be notified of any arrest within 48 hours. Those arrested by the army were generally turned over to the police within 24 hours as required under the ER. The HRC has a legal mandate to visit those arrested and this mandate was generally respected by police officials. Due to censorship and infrequent access to the area, it was unclear what was happening to detainees on the Jaffna Peninsula. The ICRC visits declared detention centers, but there are undeclared detention centers in the north that are not visited on a regular basis but are visited as needed when information received indicates that persons are being held there. Reportedly there are not a large number of individuals that are held in undeclared detention camps, probably fewer than 100. More than 95 percent of the detainees are held in the main detention center, where conditions reportedly are quite good. On the other hand, conditions in the undeclared centers range from adequate to extremely poor.

Security forces continued to conduct mass arrests of young Tamils, both male and female. Major sweeps and arrests occurred in Colombo, the east, and on the Jaffna Peninsula. Although exact numbers of arrests were impossible to determine, they reached into the thousands. Hundreds of Tamils at a time were picked up during police actions. Most were released after identity checks lasting several hours to several days. The Government justified the arrests on security grounds, but many Tamils claimed that the arrests were a form of harassment. In addition, those arrested, most of whom were innocent of any wrongdoing, were detainee